

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan Waterman	Team: Squad #14	CCRB Case #: 202003903	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2020 , Tuesday, 06/02/2020 12:30 AM	Location of Incident: Corner of Webster Avenue and East 188th Street in the Bronx; 52nd Precinct Stationhouse	Precinct: 52	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 06/04/2020 8:42 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 06/04/2020 8:42 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			
3. POM Roy Valentin	11808	961399	052 PCT
4. POM Daniel Rivera	05512	965840	052 PCT
5. POM Joshua Garcia	4045	967518	052 PCT
6. SGT James Obrien	03060	943624	052 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Kimberley Augustine	00721	945483	052 PCT
2. SGT Michael Raheb	04789	955356	SRG 2

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: At Webster Avenue and East 188th Street in the Bronx, an officer used physical force against § 87(2)(b)	
B. Officers	Force: At Webster Avenue and East 188th Street in the Bronx, officers used physical force against § 87(2)(b)	
C. Officers	Force: At Webster Avenue and East 188th Street in the Bronx, officers struck § 87(2)(b) with an asp.	
D. POM Roy Valentin	Discourtesy: At the 52nd Precinct stationhouse, Police Officer Roy Valentin spoke discourteously to § 87(2)(b)	
E. An officer	Abuse: At the 52nd Precinct stationhouse, an officer obstructed his shield number.	
F. POM Roy Valentin	Abuse: At the 52nd Precinct stationhouse, Police Officer Roy Valentin obstructed his shield number.	
G. POM Joshua Garcia	Abuse: At the 52nd Precinct stationhouse, Police Officer Joshua Garcia obstructed his shield number.	
H. POM Daniel Rivera	Abuse: At the 52nd Precinct stationhouse, Police Officer Daniel Rivera obstructed his shield number.	
I. POM Daniel Rivera	Abuse: At the 52nd Precinct stationhouse, Police Officer Daniel Rivera obstructed his nameplate.	

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On June 4, 2020, § 87(2)(b) filed this complaint via the CCRB's Call Processing System.

On June 2, 2020, at approximately 12:00 a.m., § 87(2)(b) was commuting to work as an essential worker § 87(2)(b). As § 87(2)(b) walked towards a bus stop and approached East 188th Street and Webster Avenue in the Bronx, a crowd of approximately 25 people ran towards her with approximately four to five officers running close behind them. § 87(2)(b) ran with the crowd for approximately one minute and an unidentified officer allegedly pushed § 87(2)(b) to the ground (**Allegation A: Force** – § 87(2)(g)). Several unidentified officers then allegedly punched § 87(2)(b) and struck § 87(2)(b) with an asp (**Allegations B and C: Force** – § 87(2)(g)). Officers then handcuffed § 87(2)(b) and transported her to the 52nd Precinct stationhouse.

At the 52nd Precinct stationhouse, Police Officer Roy Valentin of the 52nd Precinct allegedly told § 87(2)(b) that she had a “fishy pussy” (**Allegation D: Discourtesy** – § 87(2)(g)). § 87(2)(b) alleged that officers, including an unidentified officer who transported her to the stationhouse and PO Valentin, did not wear their shields during their interactions with her (**Allegation E: Abuse of Authority** – § 87(2)(g)) (**Allegation F: Abuse of Authority** – § 87(2)(g)). At the 52nd Precinct stationhouse, Police Officer Joshua Garcia of the 52nd Precinct covered his shield number with a mourning band (**Allegation G: Abuse of Authority** – § 87(2)(g)) and Police Officer Daniel Rivera of the 52nd Precinct covered his shield number with a mourning band and did not wear a nameplate (**Allegations H and I: Abuse of Authority** – § 87(2)(g)).

§ 87(2)(b) was released from the 52nd Precinct stationhouse with two summonses, one for § 87(2)(b), § 87(2)(a) 160.50. There exists no record for the summonses in the databases for the Office of Court Administration (OCA) and New York State Unified Court System eCourts.

§ 87(4-b), § 87(2)(g)

The investigation received BWC footage from PO Valentin. The investigation also received stationhouse surveillance footage from the 52nd Precinct. The relevant aspects of the BWC and stationhouse surveillance footage shall be discussed below.

Findings and Recommendations

Allegation (A) Force: At Webster Avenue and East 188th Street in the Bronx, an officer used physical force against § 87(2)(b)

Allegation (B) Force: At Webster Avenue and East 188th Street in the Bronx, officers used physical force against § 87(2)(b)

Allegation (C) Force: At Webster Avenue and East 188th Street in the Bronx, officers struck § 87(2)(b) with an asp.

Known Facts and General Descriptions

On June 2, 2020, at approximately 12:00 a.m., § 87(2)(b) said (BR 01) that she left her home to go to her work at § 87(2)(b). § 87(2)(b) began to walk to the Bx22 bus stop at the corner of Elm Place and Fordham Road in Bronx. However, she saw that looters and protestors blocked her route. § 87(2)(b) then changed paths and walked north on Webster Avenue from East 188th Street towards the bus stop on Fordham Road and 3rd Avenue, approximately two blocks away. On Webster Avenue, § 87(2)(b) saw a group of approximately 25 people, mostly wearing black hoodies and jackets, surround the Best Buy on the southeast corner of

Fordham Road and Webster Avenue. § 87(2)(b) crossed to the east side of Webster Avenue, at which point the group in front of the Best Buy began running towards her, with approximately four to five police officers running close behind. The group almost trampled § 87(2)(b) who began to run with the crowd. After running for approximately one minute, § 87(2)(b) felt a hand on her back and an officer pushed her by her upper back, causing § 87(2)(b) to fall onto her stomach and face on the ground. On the ground, a group of officers allegedly punched and struck § 87(2)(b) with an asp all over her body, including the back of her head, arms, legs, and back, for approximately two minutes. § 87(2)(b) told officers, whom she could not see due to her face-down position, that she was an essential worker and had a letter from § 87(2)(b) declaring such, but § 87(2)(b) was ultimately handcuffed with plastic ties. Then, an officer, described by § 87(2)(b) as a white male with blondish hair, approximately 5'6" and in uniform, walked § 87(2)(b) to a marked police van in front of the Best Buy. The investigation was unable to identify this officer. § 87(2)(b) was thereafter taken to the 52nd Precinct stationhouse by this unidentified white male officer and a second officer, who § 87(2)(b) described as a Hispanic male with a brown beard, approximately 5'5", athletically built, and in uniform. Through BWC, officer testimony, and stationhouse footage, the investigation identified this officer as PO Valentin.

BWC

The investigation sent two requests for BWC to the NYPD and received one BWC recording for PO Valentin, which only corresponded with his processing of § 87(2)(b) at the 52nd Precinct stationhouse.

The NYPD first searched for footage corresponding to the following parameters. approximately 12:00 a.m. on June 2, 2020 in the vicinity of Webster Avenue and East 188th Street. The NYPD searched for such corresponding footage for the 46th, 48th, and 52nd Precincts, as well as Narcotics Borough Bronx, Strategic Response Group 2 (Bronx), Citywide Special Operations Division, the Counterterrorism Bureau, the Critical Response Command, the Disorder Control Unit, the Lower Manhattan Security Initiative, and the World Trade Center Command.

Upon the investigation's request, the NYPD searched for footage corresponding to the following parameter for officers from the 46th, 48th, and 52nd Precincts: 12:00 a.m. to 1:00 a.m. on June 2, 2020. This search revealed a single unrelated result. Additionally, the NYPD searched for footage from PO Garcia, PO Rivera, Sgt. O'Brien, Sergeant Kimberly Augustine of the 52nd Precinct, and Sergeant Michael Raheb of the 52nd Precinct, which returned negative results.

NYPD Documents Reviewed

In an attempt to identify any officers additional to PO Valentin who participated in the arrest of § 87(2)(b) the investigation reviewed the EVENT summary for 11:00 p.m. on June 1, 2020 to 3:00 a.m. on June 2, 2020, for the 46th, 48th, and 52nd Precincts. The approximate incident location – East 188th Street and Webster Avenue – bordered these precincts. None of the EVENTS (BR 02) which corresponded with the time and incident location had accurate identifying information for responding units.

The investigation reviewed PO Valentin's memo book entries for June 1, 2020 and June 2, 2020 (BR 03). PO Valentin made no memo book entries regarding § 87(2)(b)'s apprehension and did not prepare any memo book entries specific to his responsibilities, partners, or assignments on the night of June 1, 2020 and the morning of June 2, 2020 (see Allegation L).

The investigation reviewed the summonses issued by PO Valentin to § 87(2)(b) (BR 04), but the summonses did not provide any additional information regarding the officers who first apprehended § 87(2)(b).

The investigation requested and received negative results for TRI reports prepared regarding § 87(2)(b) (BR 04).

§ 87(2)(g)

The investigation requested from the Bronx Patrol Borough detail rosters and Unusual Occurrence Reports corresponding to the Fordham Road incident (BR 05). The detail roster request returned negative results. The only corresponding Unusual Occurrence Reports regarded the damage done to approximately a dozen police vehicles within the confines of the 48th and 52nd Precincts on the night of June 1, 2020, including several parked in the vicinity of East Fordham Road and 3rd Avenue.

The investigation reviewed arrest reports from the 46th, 48th, and 52nd Precincts for the morning of June 2, 2020. None of the arrests taken in these three precincts correspond to both the approximate time and incident location for § 87(2)(b)'s apprehension.

Concurrent Investigations

There are no concurrent investigations into § 87(2)(b)'s complaint by the NYPD or other entities, and no concurrent CCRB investigations regarding any protest-related incidents in the area of Webster Avenue and East 188th Street in the Bronx at the time of this incident.

The investigation reviewed the December 2020 report released by the Office of the Inspector General for the NYPD regarding the Police Department's response to the protests (BR 06). Therein, the report only noted that "significant looting occurred in the Bronx in the late evening [of June 1] and into the early morning of June 2, notably along the commercial corridor along Fordham Road in the western Bronx." § 87(2)(g)

Ranking Officers

§ 87(2)(g)

As such, Lieutenant Maloney was interviewed and testified (BR 07) that he was not present during the Fordham Road incident, as he was stationed in the vicinity of Barclays Center through the entire evening and early morning of June 1, 2020 and June 2, 2020.

Sgt. O'Brien was identified as the highest-ranking officer directly involved in the incident involving § 87(2)(b) and the details of his testimony are discussed in further detail below.

Officers Interviewed

As PO Valentin issued both summonses for § 87(2)(b) and processed her at the 52nd Precinct stationhouse, the investigation interviewed him. PO Valentin testified (BR 08-09) that he started his day on June 1, 2020 at approximately 5:00 a.m. at Icahn Stadium on Randall's Island. Sgt. O'Brien was PO Valentin's supervisor. PO Valentin testified that he returned to the 52nd Precinct stationhouse at approximately 10:00 p.m. on June 1, 2020, at which time he docked his BWC because the battery had died. PO Valentin was then mobilized, at approximately 10:20 p.m., to the Fordham Road incident to protect storefronts from rioters. PO Valentin formed a line with other unidentified officers at Fordham Road and Marion Avenue once he arrived. PO Valentin testified that, at one point, he responded to a 10-85 radio run at the corner of Webster Avenue and Fordham Road, where a group of more than 30 people surrounded the Best Buy on Webster Avenue and tried to break windows and pull up the liftgate protecting the storefront. PO Valentin and other officers approached the group, who fled southbound on Webster Avenue. As the group ran away, PO Valentin saw a group of officers trying to handcuff § 87(2)(b) on the ground. PO Valentin did not recall seeing any officer push § 87(2)(b) to the ground. PO Valentin did not see how many officers tried to handcuff § 87(2)(b) did not know the officers by name, and could not recall their

physical descriptions. PO Valentin did not recall seeing officers punch or strike § 87(2)(b) with an asp. PO Valentin came in to assist these officers and handcuffed § 87(2)(b). PO Valentin stood her up, at which point the other officers who apprehended § 87(2)(b) left the scene. PO Valentin then found an operator and motor vehicle for § 87(2)(b) and accompanied her in transport to the 52nd Precinct stationhouse.

PO Garcia and PO Rivera were identified by the investigation after they both appeared in PO Valentin's BWC footage at the stationhouse. PO Garcia and PO Rivera testified (BR 10-11) that they started their days on June 1, 2020, at Icahn Stadium on Randall's Island. Sgt. O'Brien was their supervisor. PO Garcia testified that he was mobilized to the Fordham Road incident at approximately 11:30 p.m. on June 1, 2020. PO Garcia testified he formed a line with other officers at Fordham Road and Marion Avenue. PO Garcia did not know who held the line with him or how many officers formed the line. PO Garcia did not have any recollection of having any supervisor while on the line. PO Garcia did not see, while responding to the Fordham Road incident, any officers push a civilian to the ground, punch a civilian, or strike a civilian with an asp. Upon reviewing PO Valentin's BWC, PO Garcia had no independent recollection of § 87(2)(b). Meanwhile, PO Rivera testified that during his deployment to the Fordham Road incident, he moved around and responded to several 10-13 and 10-85 assistance calls. PO Rivera did not have a direct supervisor once he responded to the Fordham Road incident. PO Rivera did not see § 87(2)(b) until he assisted PO Valentin in lodging § 87(2)(b) at the stationhouse.

As PO Garcia, PO Rivera, and PO Valentin identified Sgt. O'Brien as their direct supervisor, the investigation interviewed Sgt. O'Brien. Sgt. O'Brien testified (BR 12) that he started his day on June 1, 2020, at approximately 5:35 a.m., supervising approximately eight officers at a detail at Icahn Stadium on Randall's Island. At approximately 10:00 p.m., Sgt. O'Brien, along with his detail, were deployed to the Fordham Road incident. Sgt. O'Brien testified that, once deployed, he no longer directly supervised his detail as they responded to jobs in the area. Sgt. O'Brien testified that he responded to calls for assistance and for burglaries in progress. Sgt. O'Brien assisted in multiple arrests, though he did not recall who he assisted, at what precise time he assisted, and at what location he assisted. During these times when he assisted in arresting people, Sgt. O'Brien did not do and did not see any officers do the following actions: push any individual to the ground, punch any individual, and use an asp against any individual in the process of an arrest. Sgt. O'Brien had no recollection of § 87(2)(b) or of interacting with her.

§ 87(2)(g)

Allegation (D) Discourtesy: At the 52nd Precinct stationhouse, Police Officer Roy Valentin spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that, once she was transported back to the 52nd Precinct stationhouse, PO Valentin told § 87(2)(b) that she had a "fishy pussy" while he removed her belongings from her pockets.

PO Valentin testified that he did not say that § 87(2)(b) had a "fishy pussy" and said nothing to that effect. PO Valentin did not recall if any other member of service made any such statement.

PO Garcia testified that he did not hear anyone speak with § 87(2)(b) at the stationhouse.

PO Rivera testified that he did not hear any officer say that § 87(2)(b) had a "fishy pussy."

PO Valentin's BWC footage (BR 13) shows Sgt. Augustine searching § 87(2)(b) at the 52nd Precinct stationhouse while PO Valentin fills out paperwork. The BWC footage does not capture PO Valentin or any other officer telling § 87(2)(b) that she had a "fishy pussy."

As stationhouse footage lacks an audio component, it did not capture this allegation.

§ 87(2)(§ 87(2)(g))

Allegation (E) Abuse of Authority: At the 52nd Precinct stationhouse, an officer obstructed his shield number.

§ 87(2)(b) alleged that she did not see a shield on the unidentified white male officer with “blondish” hair who transported her to the precinct stationhouse.

As noted above, the investigation was unable to identify any officers involved in this incident who matched the description of the white male officer with light-colored hair.

§ 87(2)(g)

Allegation (F) Abuse of Authority: At the 52nd Precinct stationhouse, Police Officer Roy Valentin obstructed his shield number.

§ 87(2)(b) alleged that she did not see a shield on PO Valentin during this incident. PO Valentin testified that he wore his shield on the right side of his chest during this incident, visible to anybody who saw him. PO Valentin did not recall if he wore a mourning band during this incident.

Stationhouse footage (BR 14) revealed that, at the 40:25 timestamp for the main entrance camera, PO Valentin wore his shield on his left pectoral while inside the precinct stationhouse, and that a mourning band was affixed above the shield number.

§ 87(2)(g)

Allegation (G) Abuse of Authority: At the 52nd Precinct stationhouse, Police Officer Joshua Garcia obstructed his shield number.

Allegation (H) Abuse of Authority: At the 52nd Precinct stationhouse, Police Officer Daniel Rivera obstructed his shield number.

Allegation (I) Abuse of Authority: At the 52nd Precinct stationhouse, Police Officer Daniel Rivera obstructed his nameplate.

§ 87(2)(b) alleged that she did not see any shields on the “blueshirts” she saw at the 52nd Precinct stationhouse.

PO Valentin’s BWC footage revealed at the 00:46 timestamp (BR 15), PO Garcia’s mourning band covered his shield number. PO Valentin’s BWC footage also revealed at the 01:16 timestamp (BR 16), PO Rivera’s mourning band covered his shield number and that PO Rivera lacked a nameplate.

PO Garcia testified, upon reviewing PO Valentin’s BWC footage, that he did not know that his mourning band had been pulled down and that he did not pull the mourning band down to cover his shield number.

PO Rivera testified that he wore his shield on the left pectoral of his uniform, that he wore a mourning band on the top of the shield and backplate, and that to his recollection, the mourning band did not hide his shield number. PO Rivera further testified that he wore a nameplate at the beginning of his tour, but at some point during his tour, the nameplate fell off. PO Rivera did not know how or at what point he lost his nameplate. Upon reviewing PO Valentin’s BWC footage, PO Rivera testified that he did not know that his mourning band covered his shield number at the time.

Per Patrol Guide Procedure 204-17 (BR 17), uniformed members of service “may wear [a] black elastic mourning band, ½ inch wide, on the shield, covering the seal of the city, but leaving the shield number or rank designation visible, upon the death of a member.” Per Patrol Guide Procedure 204-15 (BR 18), uniformed members of service are to wear their shield at all times while

in uniform on the outermost garment and wear a nameplate ¼ inch below the shield. Per Patrol Guide Procedure 203-09 (BR 19), members of service are to provide their names and shield numbers, either verbally or by other means, to all civilians who request it.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (BR 23).
- PO Garcia has been a member of service for one year and this is the first complaint to which he has been a subject.
- PO Rivera has been a member of service for two years and this is the first complaint to which he has been a subject.
- PO Valentin has been a member of service for five years and this is the first complaint to which he has been a subject.
- Sgt. O'Brien has been a member of service for 14 years and has been subject to four prior complaints and four allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of September 16, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR 24).
- According to the OCA, § 87(2)(b) has no history of convictions in New York City (BR 25).

Squad No.: 14

Investigator: Ethan C. Waterman Inv. Ethan Waterman May 6, 2021
Signature Print Title & Name Date

Squad Leader: Cassandra Fenkel IM Cassandra Fenkel April 14, 2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date